

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7787

BILL NUMBER: SB 423

NOTE PREPARED: Feb 28, 2005

BILL AMENDED: Feb 28, 2005

SUBJECT: Forfeiture of Public Pensions for Misconduct.

FIRST AUTHOR: Sen. Clark

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill:

(1) provides in certain circumstances for the forfeiture of all or a portion of a pension benefit from the State Excise Police and Conservation Enforcement Officers' Retirement Fund, the Public Employees' Retirement Fund (PERF), and the State Police Benefit System;

(2) allows a pension fund administrator (administrator) to investigate a possible forfeiture whenever a fund member is convicted of a felony involving an act of fraud, deceit, or abuse of the public trust that has resulted in a financial loss to the state or in an unlawful benefit to an individual in the conduct of state business, bribery, official misconduct, conflict of interest, computer tampering, identity deception, ghost employment, an attempt or conspiracy to commit any of these offenses, or a crime in any other jurisdiction that is substantially similar to any of these offenses;

(3) provides if the administrator decides by a majority vote to conduct further proceedings, requires the administrator to wait until the entry of judgement of conviction before holding a public hearing to determine whether forfeiture is appropriate;

(4) establishes due process requirements for a forfeiture hearing;

(5) requires a majority vote by the administrator, based on clear and convincing evidence, to forfeit a pension benefit;

(6) requires the administrator to issue a written determination, including findings of fact;

(7) requires the administrator to make a special finding if the administrator determines that forfeiture of an amount that exceeds the amount of the state's financial loss plus the reasonable costs of investigation is appropriate;

(8) requires the administrator to reduce the amount of a proposed forfeiture by the amount of any restitution made;

(9) allows a fund member to request that the administrator reconsider the administrator's forfeiture

determination;

(10) provides for a new hearing if a fund member's conviction is reversed, vacated, or set aside;

(11) provides for the return of a fund member's contributions with interest when the pension benefit is forfeited;

(12) provides that the administrator's evidence concerning forfeiture is confidential until the earlier of: (A) the time the fund member is notified of the forfeiture hearing; or (B) the time the fund member elects to have the records made public; and

(13) provides that the administrator's final determination is available for inspection and copying.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Benefit Forfeiture*: The specific impact on any fund listed will depend upon several factors such as age of the member, marital status, salary, years of creditable service, years to a full retirement benefit, and the actuarial reduction as determined by the actuary for the respective fund. The actuarial reduction is the reduction in the normal retirement benefit that offsets a cost increase to the plan when a participant retires ahead of schedule.

The funds affected are: (1) the state General Fund; (2) the Motor Vehicle Highway Account and the Motor Carrier Regulation Fund; (3) the Fish and Wildlife Fund; (4) the Administrative Fund; and (5) various dedicated funds.

Administrative Costs: There may be additional administrative expenditures, unknown at this time, related to meetings, copying of documents, and investigations as determined by the fund administrators. These additional expenditures could be minimal for the most part, however, prolonged investigations could add significant costs to the funds involved.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: The State Excise Police and Conservation Enforcement Officers' Retirement Fund, the Public Employees' Retirement Fund, and the State Police Benefit System.

Local Agencies Affected:

Information Sources:

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